

DRAFT CONSERVATION COMMISSION MINUTES
WEDNESDAY, JANUARY 17, 2007 – 7:00 PM
CATA CONFERENCE ROOM
3 POND ROAD
MAX SCHENK, CHAIRMAN

MEMBERS PRESENT

Max Schenk, Chairman
Elizabeth Steele
Charlie Anderson
William Febiger
Robert Gulla
Ann Jo Jackson

MEMBERS ABSENT

Arthur Socolow

STAFF PRESENT

Nancy Ryder, Conservation Agent
Carol Gray, Recording Clerk

APPROVAL OF MINUTES - Tabled.

CLOSURE OF HEARINGS REVIEW OF FINAL INFORMATION
AMENDMENT AND SIGNING PERMITS/DECISIONS

28-1528

86 Hesperus Ave. Duplicate CoC

The Commission issued a CoC in May of 2005, the applicant is now asking for a duplicate, issued and signed by all members present.

RIGGS POINT NEIGHBORHOOD ASSOCIATION

Ms. Barbara Lambert, Chairman and rep. the assoc.

Ms. Lambert stated that the assoc. would like to schedule a meeting for discussion re: a new development. She had further comments regarding that the Riggs area being a historical area, that this is a discretionary project, mentioning a NoI re: Wetland crossing and a sewer permit. She further commented on preserving the open space, the Historical Riggs space, noting absence of growth control, giving examples and noting that the sewer does not work properly at present. She also mentioned a ½ time frame when traveling from Riverdale to the rotary. Ms. Lambert stated that the landowners have degraded the pasture and the property is listed as unbuildable. Further stated was a tax issue and taxes not being paid for the past 18 years, leaving a huge profit for the speculators of the property. Asking on behalf of the Assoc. she would like a public discussion re: the recommendations from the Planning Board.

She had two further requests: that the public be made aware of and contribute to the tag meetings re: Goose Cove, stating this should be a democratic process and open to the public.

Mr. Schenk made mention of this being precedent setting with Ms. Ryder stating no public comment and/or participation re: the tag meetings. Her recommendation is for a Commission review with Mr. Schenk noting the NoI process.

Ms. Ryder reiterated that there is no public participation.

Mr. Anderson noted that the Commission does not usually submit anything to the Planning Board and that he feels the Commission gives everyone a fair hearing and that not being a waste of time, but extraneous.

Mr. Schenk noted that a 45 minute time frame given for the NoI, allowing time for the presentation and comments, also to be in writing as an official document for filing. He further noted that he lives on Washington Street and has concerns, wanting things to be fair re: the NoI process at an open meeting.

Mr. Gulla noted environmental issues and Wetland issues, with other issues not being within the Cons. Comm. jurisdiction.

Ms. Steele asked if permission from DEP was given re: the sewer extension and Ms. Ryder stated yes.

Mr. Schenk noted the DEP comments to be in writing as there is public interest and it would allow for further and additional discussion of the matter.

Mr. Febiger noted that he can see both sides of the issue.

Ms. Jackson stated that she could not fully comment on the issue until the application is seen by the Commission, waiting until the NoI comes in or when the Commission is asked to comment.

Ms. Ryder noted the Atty. Gen. Office and staff review: tag meetings are not a public forum.

A member of the public spoke out and stated this is a whole democratic issue.

Ms. Ryder replied that anyone can schedule a tag meeting through the Planning Board and to speak with Greg C. about that.

PUBLIC COMMENT: Mr. James Groves, Revere Street Gloucester MA.

Mr. Groves comes before the Conservation Commission reading from prepared documents commenting on the active policies of the Commission.

He quotes the Cons. Comm. website re: hearings from 4/19/06 re: Submissions of documents to the Commission.

Specifically a document that was submitted on 1/17/07, it being not in hand and not submitted the previous Wednesday (1/10/07), as required, it being not delivered until after 12:00 PM and date-stamped 01/11/07, further stating that although the documents were a day late the Cons. Office still accepted them, stating that the Cons. Comm. violated its own policies. He further stated that he was told by the Chairman of the Comm. that this would be looked into and was further told that the submission policy is correct, but some are allowed.

Mr. Groves quoted his letter to the Chairman re: the submission of documents to the Commission and read the letter in full, to the attn: of Mr. Magoon and the City Council/ to file a complaint. He further stated that this complaint is out of frustration.

Mr. Schenk noted that there have been no exceptions to the case.

Ms. Ryder stated that the timeframe regarding Mr. Groves's issue is intended to make a fair and adequate time frame, to meet the mailing packets sent out Wednesdays, as this is an arbitrary time, this particular one going out ½ day late. She further stated that the Riggs documents came in late as well.

Mr. Schenk noted a printed document of the communication between him and Mr. Groves and would be happy to answer any further questions further stating Mr. Groves could go to the City Counsel, Mr. Magoon or whomever he pleases and discuss the issues at that time. Mr. Schenk further noted that the intent of the filing procedure is to get the information in time for the packets, for review.

He further noted that there seems to be an insinuation made that this was favoritism, stating this procedure is open to everybody and is just a matter of convenience.

Mr. Anderson stated that this is either a misunderstanding and/or his broad interpretation.

Ms. Steele stated that it was her understanding that this scheduling is to help by trying to make it fairer for the Commission and the public in general, in order to review and have the time to do so. This is an administrative approach with fairness being the most important issue.

Mr. Febiger noted that the set time was for submissions.

Ms. Ryder noted that the day of Wednesday by 4PM is a guideline for submissions.

Mr. Gulla noted that we may want note: at the discretion.

Mr. Groves stated that he appreciates the forthright approach.

RE: this discussion Mr. Groves gave a bank closing as an analogy. He feels this is a fairness issue and that there is no ill will, just an issue to be clarified so that everyone is on the same footing.

CLOSED

Mr. Schenk noted to the Commission and the general public that this will be the last meeting for Ms. Steele as a Commission member. He further stated that they have appreciated her sense of humor and her presence at the meetings have been a gift and a treasure.

He noted that her stewardship over the environment was and is exceptional.

A plaque was read and given to Ms. Steele in appreciation, as well as a gift certificate from the Commission. Mr. Schenk thanked Ms. Steele for all her efforts on behalf of the Conservation Commission.

Ms. Steele noted that the members were all very good friends of hers and she would still be around, thanking the Commission.

HUTCHINS COURT (Map 115 Lot 30, Map 125 Lots 22 & 71)

Carrigan Enterprises, Inc. to make improvements to Hutchins Court and construct a driveway off Hutchins Court to access residential buildings to be located outside of the buffer zone.

Recused: Ms. Jackson and Mr. Gulla

Mr. Peter Forbach, Rubin and Rudman co counsel rep. the applicant.

Mr. Peter Ogrin, Hayes Eng. present.

Mr. Forbach presented what he called some small items: 3 revisions.

He started by discussing the culvert replacement with the Commission wanting Option B, Replacement culvert, 36 inches round, further mentioning the culvert and soil content within. He further stated that in working with Hayes Eng. they have fine tuned provisions at the detention basin, Hutchins Ct. and by the culvert.

He noted the proposed Wetland replication, being a little over 2 to 1, 175 ft of Wetland replication. Plan shown: close to the basin.

Mr. Seacamp present. Mr. Forbach stated he would like to close the hearing and vote on the Order of Conditions with the Commissions standard conditions and special conditions re: location of replication agreeable.

Ms. Steele noted that the site visit was helpful for clarification purposes, and had no further comment.

Mr. Anderson mentioned the new specs. of low impact technology and regulations re: Ground water runoff.

Michael Carrigan, Norwood Heights, minor amendment of policy changes regarding detention ponds.

Mr. Forbach noted that if DEP issues new standards Mr. Carrigan would be willing to come back.

Mr. Febiger no further comments.

Mr. Schenk noted open space and additions and Mr. Forbach stated: modification:

In area far from Commission jurisdiction, allow elimination of road connection re: Tufts Ln. 70% open space/ exceeded *****, revision.

Mr. Schenk noted test holes on the site and stated that the applicant and reps. would have to meet with the Agent 72 hours before work to be started.

PUBLIC COMMENT:

Mr. James Groves re review of the project, further stating that Mr. Geisel was unavailable for the meeting this evening. Mr. Groves proceeded to read from a letter of response from Mr. Geisel outlining issues:

DEP would look favorably on low impact techniques and the applicant should be encouraged to use these techniques.

Inlet and outlet: 104.8/ 104.2 respectfully. It was noted that the City lists significantly lower water levels.

Sheet 2 of 5: water level 103.0 and noted the topographical plans from 1957. 1993/102.7 and 1998/101.5. Water receding from the stream.

Further noted: Current culvert lacks capabilities, hydrology analysis needed.

RE: Snow storage areas: will not work affectively with a more appropriate area for snow storage needed. Mr. Forbach noted this is on the agenda and submitted in writing.

Mr. Schenk stated it can be read and submitted but he would rather have it submitted and then read.

Noel Mann stated that the snow removal area is close to the buffer zone and vernal pool. She further stated that changes in grade are not shown well on the plan. In regards to the effects of blasting, there is a profile but most of the blasting is in an area, which she pointed out on the plan.

Mr. Peter Ogrin, Hayes Eng.: Mr. Ogrin states that an analysis was filed and noted reasoning for a small storage area.

DEP policy to the extent that you can go to, then storm water management, picked because of DEP writings.

Mr. Febiger asked of blasting would be done and Mr. Ogrin stated that there would be some blasting. He also asked of the catch basin and storm drains are in both directions and Mr. Ogrin stated: yes and points to the plan re: blasting.

Water line to be replaced and hoping it would be done in the old trench.

Ms. Mann pointed out that there is no trench and it would have to be constructed.

Mr. Ogrin stated that a trench would be constructed.

Mr. Steven Golden: Mr. Golden questioned this as being a limited/redevelopment project and stated that under state and local, we don't have enough information. He mentioned Dog Town and the bio map. Mr. Golden went on to say that Mr. Seacamp supposedly did a Wildlife Study and he completely ignored where they just ripped through and put in a new roadway.

He further stated he finds this insulting, no studies were done and it is in his opinion of the highest priority. With spotted-turtles being de-listed, he feels the delisting is strictly political.

Mr. Anderson asked Mr. Golden if he knew it was political and Mr. Golden replied stating in his opinion it was political and stated that they superseded every decision the Commission made.

Mr. Anderson went on to state that he has worked with the Fish and Wildlife for over 40 years and this would not be in character with how they work. They are not appointed by the Governor and further stated that the individuals affiliated with the Fish and Wildlife are as far removed from politics as you can get and he strongly disagrees with Mr.

Golden. Mr. Golden stated that the spotted turtle de listing may be legally challenged, with no studies and stated that Mr. Schenk's previous testimony re: turtles and owls. He feels that no true studies have been done yet for a most highly sensitive area.

Mr. Seacamp: A 2 page study was done.

Mr. Schenk noted to the Commission and general public that we should wrap this up as other issues are scheduled for this evening as well.

Mr. Golden stated that he would finish but further noted that when the applicant spoke he was not cut off like this. He went on to say that there is a real question as to whether or not this project will be built as he feels there is insufficient information and would like 3 things to happen: Continue the hearing, require a Wildlife Habitat Study and hire an independent consultant to review all the information.

Mr. Seacamp stated that he was required to submit an impact study with photographs in November. 22 acres will be preserved as open space. No endangered species were identified on the site including no spotted turtles.

Mr. Febiger inquired as to the inlet and outlet elevations, and asked about 103 being an elevated Wetland.

Mr. Ogrin noted that the water level is within the Wetland being controlled by 104.8 culvert setting. He further stated that they are willing to work to restore original elevation, at lower elevation, he can do that. He further noted it has been at this elevation for years and mentioned a satellite survey.

Mr. Febiger noted that the elevation on the plan, topography, at 105 and inlet 104.8.

Ms. Steele noted that this was discussed during the site visit. She further noted that Mr. Geisel was most valuable at that time re: discussion of impact and solution, going with a natural bottom.

Mr. Ogrin noted a sketch of the culvert, water levels, etc. and

Mr. Febiger asked will it fill to that elevation then spill and Mr. Ogrin stated: yes.

Mr. Anderson inquired as to the plan and the revision re: Tufts Lane and the non connection, is that listed on the plan? Mr. Ogrin stated no roadway on the plan.

Mr. Schenk noted work to be proposed: none to be done during times of first rain re: the vernal pool. Seemingly that could be part or all of the month of March.

Barbara Lambert stated that she has concerns about the Wildlife re: this project.

She is appreciative of the Commissions work but would like to know what the species are. Mr. Golden noted that how would one know about the spotted turtles if no real studies were ever done.

Mr. Schenk asked the Commission if they had further comments or inquires.

Ms. Steele felt all questions at this time were answered and that she is open to options.

Mr. Anderson stated that he understands this to be a complex issue and stated that we expressed our concern to the Planning Board. He further noted that if the developer wants to build a road to nowhere, its his choice.

Mr. Febiger asked if a date for construction to begin has been chosen.

Mr. Carrigan noted fall then stated pushed up to spring.

Mr. Schenk noted the conditions:

Culvert reconfirmation, elevations at either end be appropriate, no work to be done from the 2nd week in March to mid April.

Mr. Seacamp asked for a clarification re: roadwork or actual construction of structures and Mr. Schenk noted: no work.

Mr. Schenk noted that a very good job was done regarding test pits.

Mr. Anderson noted that he did a site visit and was pleased with the post grading.

MOTION: Mr. Febiger moves to approve in accordance with revised plans and subject to the aforementioned conditions and standard conditions.

SECOND: Mr. Anderson

VOTE: 4-0 all in favor

70 HOLLY STREET (Map 123 Lot 70)

Mary Ann Wenniger to construct a single family home.

Mary Rimmer, rep. the applicant.

Ms. Rimmer states that this a ½ acre site, prev. approved most recently 1/03 and the order has expired. This is similar development but with a better buffer zone area.

In her brief summary she states that the sod roof has been eliminated from the plan and no lawn is being proposed. Noted was the Wetland edge, 10 and 25 ft. buffer. Coastal bank, Goose Cove, elevation 10. Green area noted on the plan.

Extent of grading, S. Sawyer Eng. present, existing grade on plan in yellow.

There was a question noted regarding the depth of excavation and a question regarding a particular tree located by survey and noted on the plan. The current distance 4 to 5 ft. to the face of the wall.

Mr. Schenk asked if the branches were in or away and Ms. Rimmer replied that they were in. Ms. Rimmer further noted that the tree noted on the map is almost dead. 2 White Ash trees are to be removed.

Mr. Schenk noted, planting in kind and Ms. Rimmer replied, not so much in kind as natural with 2 to 1 mitigation. A list of proposed plantings and Suzanne Birch 8 Granite Street Rockport, MA were noted.

Ms. Rimmer informed the Commission that rather than 1 single retaining wall she is proposing to terrace the area with natural plantings. The wall 4 ft. in height with masonry wall 2 to 2 ½ ft. in height. On the map is noted low growing, slow spreading plantings. Steve Sawyer discussed the storm water flow, sheet flow and from the terrace ½ percent grade. Stand pipe noted, 12 ½ inch diameter perforated pipe.

Mr. Schenk asked if there was operational maintenance needed.

Mr. Sawyer stated no, tidally influenced, detain and treat any possible flow.

Mr. Schenk inquired as to chemicals, pesticides and/or fertilizers on site.

Flow discharge and rain garden were discussed and wanting to keep the storm water technique as simple as possible.

The drainage calculations were submitted to Mr. Mike Hale on 1/8/07.

Ms. Ryder asked of a copy had been mailed to the Conservation office and Mr. Sawyer was not sure and submitted a copy at this time.

Mr. Gulla inquired as to gutters and was told that no gutters are proposed.

Ms. Ryder noted her serious concern re: ground water separation. With 2 ft. it seems like you have an inch with no 2 ft clearance, not enough separation.

BVW: 9 She further stated that the site is tremendous in size as well as building that close to the trees, would take 20 to 30 years for the trees to recover and develop.

She also noted issues with the impact to the habitat.

The Agent noted that the project could be done and in a reasonable fashion by removing the studio and porch bump out and that the storm water in the back could work.

Ms. Rimmer noted that there are different standards for single family re: storm water and runoff. Regardless of what it is being used for, its 2 ft.

Mr. Sawyer notes the plan re: infiltration and discharge. It will detain and treat slowly percolating into the ground. We went for low impact noting the pervious driveway.

Ms. Buchanan noted that plantings are important and the plantings proposed are better than what exists now. With water going into the plantings it offers a richer site than exists now.

Ms. Rimmer noted that it is proposed that 2 trees would be removed.

Andy Stevens, the builder noted that other trees had been taken down many years ago.

There is no choice re: the removal of some trees because of the driveway. He further stated that regarding the studio and the tree, he will try to work away from the tree but it is a 50-50 proposition.

Ms. Wenniger notes that at an existing home she occupied in Manchester they worked around a tree when building a deck.

Mr. Schenk noted that either way the roots would be impacted.

Ms. Wenniger noted top root and ash trees. Photos were shown to the Commission members re: trees to be removed.

Mr. Anderson inquired as to the patio materials and Ms. Rimmer noted fieldstone and cobblestone.

Ms. Rimmer notes on the plan an area that was already disturbed, noting removal of materials, revegetate and re-stabilize the area.

Mr. Febiger questioned an area on the plan that notes the outline of the studio as a double line. Ms. Rimmer notes this as being the foundation wall.

Mr. Febiger inquired as to an area between the house and studio.

Ms. Wenniger states that it is a storage unit and pre-fab greenhouse.

Ms. Rimmer notes at the site, Goose Cove and **** water, tidewater came up to the limit of coastal bank.

Mr. Febiger noted lift 2 inch to coastal bank, this needs to be noted correctly,

Ms. Rimmer does not agree and further stated that she has been working closely with the Agent to meet the owner's needs at the same time being sensitive to the Commission and that she does not want to disregard anything the Commission has to say.

Noted: 11ft 6 inches on 12/4 @ 7:00 A.M. to coastal bank

Mr. Schenk noted that it needed to be represented on the plan.

Mr. Sawyer noted that he would get the topography of the entire bank.

Ms. Rimmer stated not so much the bank elevation as to where the tide measures.

Mr. Schenk stated to the applicants and representatives that the reason for going over all of this is because the Commission does not want the applicants home in the water.

Based on the Agent's field observations a better idea would be to have water creep onto the property. One extra step that should be noted on the plan.

Communication in the form of a letter submitted to the Commission:

David Christian, M.D.

To summarize the letter submitted stated that the applicant should not be exposed to chemicals used as they can cause a flare up of asthma. Recommendation that the applicant not be exposed to such chemicals in her living space.

Ms. Wenniger further noted in re: to the letter noted above that an additional ailment prevents her from being exposed to such chemicals as well. She noted it was ironic and Mr. Schenk inquired as to the chemicals she uses as an artist, are the same chemicals that harm her.

Ms. Jackson stated she was very uncomfortable with the project and noted some concerns she had with the project as a whole. She felt the applicant and representatives should consider some of the suggestions made by the Commission.

Now added: a deck to the front of the studio, a move closer to the resource area, a storage shed added and the physicians letter and the chemicals issue she reiterated that she was very uncomfortable with this.

PUBLIC COMMENT:

Mr. Steven Golden: Mr. Golden stated that he appreciates Ms. Ryder's need for protection. He further stated that this is the applicant's life as an artist and painting and urged the Commission to continue this matter and that the Agent work with the applicant although he appreciates Ms. Ryder's frustration and felt more work needed to be done. This is a human issue and a difficult situation.

Mr. Bob Oston: abutter to the applicant

He stated that he had a concern re: the fact that so many trees have already been destroyed on the site already.

The builder then discussed trees and a rock that exists on the property and stated that he was afraid that the tree would be damaged during construction and understands the concerns noted.

Ms. Wenniger stated that the good intentions are reflective of the concern of the neighbors. O'Brien Tree Co. was noted and the high price of linking together two trees at a cost of \$1500.00 and that the tree by the turnaround is almost gone and another tree is alive and leaning.

Ms. Rimmer stated that low quality trees could be replaced with high quality trees.
Ms. Rimmer further stated that it has never been her nor the applicants intention to ignore Ms. Ryder's comments or the Commission.
Mr. Schenk stated that it all seems to be heading in the right direction. Information is needed from the Eng. Dept., an opinion needed.
Ms. Ryder noted re the land that Goose Cove at high water needs to be reflected on the plan. Mr. Sawyer noted Section EE > BVW at that section.
Mr. Schenk inquired with Ms. Ryder as to the water level on site and Ms. Ryder stated: Approx. 20 ft from back corner, right where coastal bank line is indicated on the plan.
Mr. Schenk noted concern re: the artist space and especially the deck.
Mr. Febiger asked if rotation was an option, moving the side toward the street and Ms. Ryder noted it was wedged as far back as possible.
Mr. Febiger further inquired as to a possible combination of shrink and rotate.
Ms. Rimmer stated that was a question of redesigning. She feels the way the plan is now there is no impact and areas disturbed would be restored.
Mr. Anderson asked if the deck would be a work area.
Ms. Wenniger stated essentially this would be a one story home and in answering Mr. Anderson she stated that she has frames made and she paints, decorates and drying on the deck. She also makes handmade paper. The fact that there is no yard, no lawn, but there are bird loving trees.
Mr. Anderson inquired as to toxic materials being used.
Ms. Wenniger stated if the deck is such a big deal it can be eliminated.
Ms. Steele noted the design could be kept but just pulled back. She further stated she will be abstaining when it comes time to vote.
Mr. Gulla noted that there is a possibility of saving the trees and that the turnaround is cumbersome, which was discussed at the site. He sees no need for the deck, set back the studio to save the trees, feels this is a possibility and not unreasonable.
Mr. Schenk noted the footprint now and the footprint previously discussed.
He asked for dates and times for a continuance.

MOTION: Mr. Febiger moves to continue the matter until 2/7/07 9:30 PM

SECOND: Ms. Ann Jo Jackson VOTE: 5-0 all in favor ABSTENTION: Ms. Steele

124R MAGNOLIA AVE. (Map 124 Lots 22 & 71)

Edmonds Family Realty Trust to raze existing 6 family dwelling and construct a two family dwelling. REQUEST FOR CONTINUANCE TO: 2/7/07

MOTION: Ms. Ann Jo Jackson moves to continue the matter to above date at 8:30 PM.

SECOND: Ms. Steele VOTE: 6-0 all in favor

129/130 WHEELER STREET (Map 100 Lot 28)

Matthew Murray to amend OoC 28-1727 for clearing and planting activities and request to determine the applicability of the Wetlands Prot. Act and the local Ord. for a previously constructed deck.(Map 100 Lot 35).

REQUEST FOR CONTINUANCE TO 2/7/07.

MOTION: Ms. Jackson moves to continue the matter to above date at 8:30 PM

SECOND: Ms. Steele **VOTE:** 6-0 all in favor

Mr. Anderson noted that the Comm. was waiting for delineation re: coastal bank.

Ms. Ryder stated nothing had come in as of yet.

A filing und the City of Gloucester Wetlands Ordinance by **SAM PARK** to construct mixed use development and access road off Rte. 128 Extension (Map 262 Lots 13 & 14, Map 43 Lot 4).

Ms. Amy Green representing the applicant did a recap of the site walk.

Walk around: Area C then Area D. Ms. Green noted the site plan pointing out where the site walk had taken them.

A discussion was h ad re: the worth of reforestation in relation to the power lines.

Ms. Ryder mentioned 2 issues: The Commission to submit comments re: the site visit, and a 3rd party. Conflict: Different 3rd party needed. The Commission has to decide what they want the 3rd party to review.

Ms. Steele noted storm water, mitigation and Wetland delineation.

Ms. Ryder noted that information has already gone to Greg Sargent

** Green: Army Corp. sign off was mentioned as well.

A resubmission after 3rd party review. (EIR)

Mr. Anderson noted the power lines and cutting it to grade leaving the pool. He further stated that depending on what National Grid has done. We don't want any habitat exposed to chemicals as well as not wanting any birds eating toxic berries. He feels this is something to consider.

Ms. Ryder noted that meadow habitat was discussed rather than trees.

Mr. Schenk agreed re: the open space and foraging area to wildlife.

Wetland mitigation and restoration areas, pretty satisfied with making sure of adequate flow between one and another vernal pool area – proper wildlife species corridors.

Ms. Jackson noted the biggest concern being utility poles and revegetation.

Ms. Ryder noted: the 3rd party draft, storm water, replication, elevation of chemicals, National Grid use or not, City Eng. and the Planning Board, review of hydrologic flows and connectivity, review of vernal pool, specify the slope as well.

CDM is a fairly large firm.

Ms. Green noted she was not sure of a timeframe and Ms. Ryder noted that a meeting can be had before the 7th of February.

PUBLIC COMMENT:

Mr. Steven Golden: Mr. Golden feels that the important issues are the vernal pools on the site and using a large amount of uplands. He noted the Federal Clean Water Act, having jurisdiction over any illegally destroyed Wetland. Code jurisdiction, doing some joint consultations, re: the Planning Board and the City, have to talk about habitat preservation not just corridors. He further discussed the Clean Water Act, Local and State Wetland Protection Acts, City Council w/special permits. He stated that each of these Acts has

citizen enforcement. He further mentioned the State Act, due process and appeal rights. He closed by stating that studies are needed and agencies need to take responsibility as we pay taxes for this.

MOTION: Ms. Steele moves to continue the matter until 2/21/07 at 7:30 (1hr.)

SECOND: Mr. Febiger VOTE: 5-0 (Mr. Anderson not present at this time)

Ms. Harrison noted a request of two times, local.

The Commission voted re: the 3rd party review.

MOTION: Mr. Gulla moved for the above

SECOND: Ms. Steele VOTE: 5-0

Ms. Harrison addressed Ms. Steele noting that it was a pleasure working with her and that she would be missed.

11 JEBEKA LANE (Map 252 Lot 17)

Deborah Holland to remove existing dock and construct new dock.

REQUEST FOR CONTINUATION TO 02/07/07.

MOTION: Mr. Febiger moves to continue the matter to the above date at 9:30 PM

SECOND: Ms. Steele VOTE: 6-0 all in favor

145-155 ESSEX AVENUE (Map 218 Lot 31) NEW

Heights at Cape Ann request the Conservation Commission to determine the applicability of the Wetlands Protection Act and the local Wetlands Ordinance to conduct vista pruning.

Request for Determination

Ms. Steele – recused.

Chi Mann representing the applicant. Mr. Mann noted that after a discussion with the Agent, application now to determine if tree pruning is applicable, noting the plan.

9.1 sea level. He stated that a Wetland scientist will outline the Wetland.

Determination to see if pruning would be under 10.02 Sec 1 re: pruning without NoI.

Ms. Ryder noted that everyone's idea of vista pruning is different.

Mr. Chi noted a professional pruning company. He further stated that entire trees would not be cut, just pruning to be done. Ms. Ryder asked Mr. Chi to define pruning.

Mr. Gulla suggested that the Agent be present for determining what is to be cut and what is being cut and what is considered pruning in this particular case.

Mr. Schenk noted going along the existing road and prune from there. It may be prudent to have the Agent and/or the Agent's assistant on site.

Ms. Ryder noted that the pruning needs to be defined before the Agent views the process of pruning.

Mr. Gulla asked if the Commission could say no topping of the trees when you use the term vista and is there a specific area; specifically he asked Mr. Chi exactly where he is to cut.

Mr. Chi stated cutting would be done along the road.

Ms. Ryder noted that what Mr. Chi is discussing is not what is being shown on the map. She further notes the definition of pruning as defined by The Dept. of Environmental Protection.

Mr. Febiger asked if there is a City by-law and Ms. Ryder replied, only in upland ledge. It was noted that the Commission does not have a problem with vista pruning; the plan just needs to denote the allowed area for the work to be done and only at 10%.

Ms. Ryder stated that the profile photo needs to note where the pruning would be done.

Mr. Schenk suggested using the existing plan with new photographs as well as the reach of the machinery to be used to accomplish the pruning.

Mr. Gulla noted that you may have to pick and choose only having 10%.

Commission members view the plan.

PUBLIC COMMENT:

Mr. Steven Golden stated that he appreciated this discussion being opened up to the public. He further stated that the key here is the biological effect on the trees not the percentage and that a Certified Arborist needed basically as a 3rd party, which the Commission should determine.

Ms. Ryder said she agreed and would rather have a Cert. Arborist rather than herself.

Mr. Anderson suggested a re-visit to the site and if anything is destroyed beyond the determination, they need to put it back.

Ms. Ryder noted that panoramic views of the proposed area to vista prune are needed for the next meeting.

It was further noted that an arborist should be on site, in kind trees 2 to 1 replacement if necessary.

Ms. Jackson stated she would like to see it go higher than 2 to 1 and include a canopy.

MOTION: Ms. Jackson moves to continue the matter until 02/02/07 at 9PM.

SECOND: Mr. Febiger **VOTE:** 5-0 all in favor

19 DOLLIVERS NECK DRIVE (Map 201 Lot 65)

An Abbreviated Notice of Resource Area Delineation submitted by Dollivers Neck Realty Trust. **REQUEST FOR WITHDRAWAL**

Mr. Schenk – recused.

No Commission Comments – No Public Comments

MOTION: Mr. Febiger moves for withdrawal as requested

SECOND: Mr. Anderson **VOTE:** 5-0 all in favor

BASS AVENUE #'s 2,4,4R,6, 6A,8,10 & 14 (Map 50 Lots 22,23,24,25,26,27,28,29)

Rep: Bill Cox and Paul Dewsnap

Richard Cretarolo to construct four duplex dwellings and road.

At this point in time Ms. Ryder was unable to locate her notes on the site visit.

Mr. Schenk noted testing for contaminants, further noting the depth of the ground water from the Wetland to the street with a question of change of the level of ground water.

Mr. Gulla inquired as to the planting plan regarding the front and why is nothing growing there, further stating that some sort of mitigation plan needs to be in place.

Ms. Ryder noted that a reconfirmation of the delineation line is needed.

Mr. Schenk mentioned a soil check and every 5 ft.

Ms. Ryder noted it being a fairly preliminary soil test.

Ms. Steele noted the MCP (Mass Contingency Plan) for information. (Re: ground water)

Ms. Ryder noted that this is not in one location but the sheer quantity of sheet water; need a cross section of the ground water. C. Young to review this and discuss the issues with the Agent.

Mr. Febiger inquired as to this being Lots 3 and 4 with Mr. Schenk stating: Yes.

DEP gave the Comm. there interpretation of the storm water with a submission to the Agent and the Eng. Dept.

FEMA flood line shown.

Ms. Ryder stated she was very concerned about major flooding. She further questioned the surface flow and made mention of the detention basin, 197 cubic feet. Planning - was 10 times the amount. A Report was previously given to the Agent. Mike Hale submission as well.

Mr. Gulla stated that he would not want just token trees, but real ones. He further stated that a landscape plan would go a long way in regards to flooding, with Ms. Ryder in agreement. Mr. Gulla further referred to documents and Page 2.

Ms. Ryder inquired as to there being a 3rd party report, and further asked, being based on the Planning Board. Answer: Yes

Commission checks to see if any of the members have documentation re: 3rd party review. Exhibit # 14. 06/07/06 Letter from Bill Ross

Ms. Ryder notes that this is not really considered a 3rd party review.

The applicant stated that he could get further information to the Agent for review.
Bass Ave. Neighbors - submission of documents to be reviewed by the Representative for the Applicant.

PUBLIC COMMENT:

Edwin Leavitt 26 Bass Ave. /presenting a plan to the Commission for viewing.
He submitted a satellite shot from 1995 for review to be discussed at the next meeting.
He points out the Comm. in Red: where three homes had been taken down.
He has concerns about flooding in the area and he noted in a letter calculations re: the lots. He deducted the area in back to the no disturb line: 51,825 sq. ft. of area, building and roadway coverage, 46,025 sq. ft taken.

Mr. Gulla feels that the percentages are out of whack and seem high.

Mr. Leavitt stated: 1 inch of rain: 28,691 gallons of water.

(North Dakota Univ. calculations)

He further stated that the neighbors are concerned and feel that no pit can handle that amount. Mr. Leavitt further noted on the plan the neighbors who will be affected re: water and flow.

12/31/06 2005 Coastal Zone - in collaboration – Conservation Commission, Board of Health, Shellfish, The Engineering Dept and the Good Harbor Beach Watershed Assessment.

Ms. Ryder noted the NS Reg. Cons. Comm. and an issue with reduced salinity
Further stating that the creek flows and floods backyards, too big an area for the Wetland to handle.

Mr. Cox noted to the Comm. a 5th house listed previous to 1995

Ariel view in 1995 shows no particular growth in that area. The area is being used by The Mass Highway Dept. He conveyed to the Comm. that at the next meeting he hopes to have other ariel maps going farther back in time.

Rep 2: Mr. Paul Dewsnap:

In regards to the storm water report, noting the plan he explained the proposal for the catch basins and detention basin.

23,000 sq. ft. of impervious area, with all runoff from roof to grassy swales noted on the plan. Again he stated more ariel views to be presented at the next meeting.

Nancy D. Bass Ave resident asked if the applicant would want to purchase her and the neighboring homes when they are destroyed or purchase the homes at 20 % above value.

Ms. Ryder noted that a construction sequence is needed.

Order of Condition, as built to show that the approved plan was followed.

Mr. Golden: re: 1 inch, does that meet standard? Ms. Ryder: yes

Mr. Golden noted this being defined as perennial stream and riverfront, stating that was his opinion and in speaking with Ms. Ryder, that delineation had run out.

He feels this needs to be addressed and revisit the intent. Perennial stream subject to tidal flow the entire Annisquam as being a perennial river.

He further noted Dave Sargent and measuring the fresh water flow and stated that according to DEP a tidal makes it a river.

Ms. Ryder in reply stated that is partially true and part taken out of context.

Legal agreement and settlement is for the life of the property.

Mr. Golden: Inquired as to there being enough of a tidal flow to be considered a perennial stream and requests that the Commission get those facts.

Mr. Anderson made mention of salinity with Ms. Ryder stating nearly 0, fresh water flow. Restore between Hart Street and Rte 128.

Best that you can do is re create.

Mr. Anderson noted that there is a salt water wedge. Eric Hutchins is interested in restoration of the Wetland.

MOTION: Mr. Gulla moves to continue the matter until 02/21/07 8:30-9:30 PM.

SECOND: Mr. Febiger VOTE: 6-0

Ms. Ann Jo Jackson exits the meeting.

Commission Business

Correspondence and Other Commission Business:

Closure - **6 WATERSIDE LANE** Review, amendment and signing of decision for denial

The Commission began a review with pertinent documents being passed out to each Comm. member. The Comm. takes time to read the above listed documents.

Mr. Gulla noted page 5 re: replication plan, and Ms. Ryder stated she could reword the portion of concern that Mr. Gulla inquired about.

Mr. Febiger noted that answers were not addressed re: suggestions made and DEP was not added as well.

Mr. Anderson stated that it looked O.K. to him. Mr. Gulla: O.K. as well.

Mr. Febiger addressed page 3 re: pilings under the home/ complete or partial?

It was noted that the Comm. can say part or all re: the structure and Mr. Febiger inquired as to all or part. Line 3/3rd paragraph: re: soils: may be different.

He further noted that the first 2 sentences should be removed, and start with:

The Commission proposes...

the 2nd reference.

Ms. Ryder stated she was in agreement and leave

MOTION: Mr. Febiger moves to

SECOND: Mr. Anderson

VOTE: 5-0 all in favor

City of Gloucester CSO Project, 28-1765

Ms. Ryder briefed the Commission:

Re: erosion control, part of condition 33. Looking for letter permit

Looking for permission for an additional barge, never ground out.

Permission needed from CSO and The Engineering Dept as well.

Complaint re: new flooding

Not ER, 30 to 40 years old. Lots of stuff going on around the area,
3 private properties. Summary to be emailed.

Farrington Avenue

Ms. Ryder briefs the Commission:

Citizens have threatened to sue the City re: water flowing uphill

BSC GROUP – infiltration detention design change.

3 Calls a day regarding this issue from a Kettle Cove individual.

There is a need to wait until spring regarding this issue.

Agents Report on Violations

21 HOLLY STREET (Map 123 lots 50, 58 R Lane)

Review in progress.

Requests for Extensions:

107 WHEELER STREET (28-1637)

Extension granted, w/ Condition: planting in resource area w/vegetative buffer.

Time did not permit further Commission Business to be addressed and will be listed on
an upcoming agenda.

MOTION: Mr. Febiger moves to adjourn the meeting

SECOND: Mr. Gulla **VOTE:** 5-0 all in favor – Meeting Adjourned.

Respectfully submitted,

Carol Gray

Recording Clerk